

DECISION NOTICE
CANYON CREEK WILDLIFE MANAGEMENT AREA
- CARTAN ADDITION -
ENVIRONMENTAL ASSESSMENT
Montana Fish, Wildlife & Parks
Region Three, Bozeman
September 2018

Proposed Action

Montana Fish, Wildlife and Parks (FWP) proposes to acquire approximately 237 acres in fee located in the Robert E. Lee Mountain Range both east and west of Hwy 279 northwest of Canyon Creek, Montana. The property includes a portion of the Canyon Creek drainage. The property would be an addition to the existing ~3090-acre Canyon Creek Wildlife Management Area (WMA) northwest of Helena.

FWP is concurrently proposing to acquire approximately six acres from the Palmquist Family in the same area. The Palmquist Family property would also be an addition to the Canyon Creek WMA. This proposed addition was evaluated in a separate EA with a separate Decision Notice.

The Canyon Creek WMA provides yearlong habitat for elk, upland game birds, small mammals, and birds and seasonal habitat for deer, moose, bear, forest carnivores, raptors, and endemic and neo-tropical migrant birds. Little Mill Creek, Big Mill Creek, and Sawmill Gulch flow through the eastern portion of the WMA and contain brook trout. These streams have been considered for westslope cutthroat trout restoration, and the fish species composition is likely similar to tributaries on the western portion of the WMA. Canyon Creek, Weino, Specimen, and Tar Head Creeks flow through the western portion of the WMA and contain mottled sculpin and rainbow, brown, brook, and native westslope cutthroat trout. Public recreation opportunities include hunting, fishing, wildlife viewing, hiking, horseback riding, and picnicking. Public access to adjacent public land (United States Forest Service, United States Bureau of Land Management, and Department of Natural Resources and Conservation) is also provided with this WMA.

The benefits of acquiring the additional property include increasing the amount of existing, contiguous protected wildlife habitat and further protection of a stream corridor containing native westslope cutthroat trout. The following are details of the resource values FWP intends to conserve:

- Acquisition of this property would secure additional habitat and movement connectivity for wildlife. Species of Concern (SOC) verified to occur in this vicinity include wolverine (*Gulo gulo*), Canada lynx (*Lynx Canadensis*), grizzly bear (*Ursus arctos*), pileated woodpecker (*Dryocopus pileatus*), golden eagle (*Aquila chrysaetos*), and westslope cutthroat trout (*Oncorhynchus clarki lewisi*). Unverified SOC for this area includes fisher (*Martes pennant*). No plant SOC were listed in the Natural Heritage Program database for this vicinity. A complete list of those species that are predicted to be present in the vicinity is included in Appendix A. This property is within an identified high-

priority wildlife linkage area along the Continental Divide. In that scope, this property is part of a larger landscape effort.

- Acquisition of this property may be important for future westslope cutthroat trout (WCT) population expansion, restoration, and habitat improvement projects as WCT inhabit Tar Head Creek and other nearby Canyon Creek tributaries. In addition, recreational fishing opportunities for rainbow, brown, and brook trout would increase throughout the Canyon Creek stream corridor.
- Acquisition of this property would avoid potential development that could otherwise directly impact the WMA's habitat and recreation values. Hunter use is expected to exceed 500 hunter days annually. Angler access would increase on Canyon Creek with additional fishing opportunities for rainbow, brown and brook trout. Acquisition may also enhance FWP's ability to achieve population management objectives of wildlife (such as elk). This property would also allow hiking and wildlife viewing.

If the acquisition is completed, the additional 237 acres of the Canyon Creek WMA would be managed under the guidance of the *2002 Canyon Creek Wildlife Management Area Management Plan*.

Alternative Considered to the Proposed Action

No Action: FWP would not acquire the addition to Canyon Creek WMA

Under the No Action Alternative, FWP would not acquire the property from the Cartan Family. Eventually, the property would likely be sold and developed, leaving open the potential for possible conflicts on adjacent WMA lands.

Montana Environmental Policy Act

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments, evaluate those impacts through an interdisciplinary approach, including public input, and make a decision whether or not to proceed with the project.

In compliance with MEPA, a draft Environmental Assessment (EA) was completed on the proposed action by FWP and released for public comment in August 2018. The public comment period was for 30 days with a deadline of 5:00 pm September 25, 2018.

Additionally, a public hearing was hosted by FWP at the FWP Headquarters building in Helena on the evening of September 20. The meeting provided an opportunity for FWP to address questions about the proposed project and its alternative and to receive public comments. Legal notices announcing the availability of the EA were published in the *Bozeman Chronicle* and *Helena Independent Record*. In addition to the announcement, the EA was posted on FWP's webpage: <http://fwp.mt.gov> under *Public Notices*. The EA was mailed or emailed to over 30 interested groups and individuals and adjacent landowners, in addition to internal FWP

distribution. Additional opportunity for public participation was possible this past spring (2018), when the Montana Fish and Wildlife Conservation Trust issued a request for public comment.

Summary of Public Comments

A public hearing was held for this proposal and the Palmquist proposal. Eight people signed in at the public hearing in Helena. Seven individuals testified and offered comment: six individuals were in support of one or both proposals (4 both, 1 Cartan, 1 Palmquist) and offered specific suggestions for FWP to consider. One individual opposed the acquisition of the 178-acre Cartan parcel. Two individuals who commented at the hearing also provided written comment. Six comment letters were received from individuals or organizations via mail and regular mail during the comment period on the proposed action.

A total of nine individuals and organizations indicated support for FWP to acquire the Cartan property for addition to the Canyon Creek WMA. One individual registered opposition to FWP acquiring the 178-acre parcel.

Public participation is a mechanism for agencies to consider substantive comments on a proposal. The following is a synopsis of the feedback received, and FWP's response to those comments and questions.

1. Comments supportive of the project
 - a. Another spot for the public to enjoy the outdoors; use plan looks great; shouldn't cost much to maintain the added acres
 - b. Public access is a critical aspect to public support for projects such as this one
 - c. Public access to adjacent public land is provided with this WMA
 - d. Protects and improves fish, wildlife, and water quality resource values important to residents of the state
 - e. Canyon Creek WMA is important resource for citizens of Lewis and Clark County and the state
 - f. These additions make sense from both wildlife habitat and public access perspectives
 - g. The Canyon Creek WMA represents high quality big game habitat
 - h. These additions will add important habitat
 - i. These additions will improve public access to the WMA; many of our BHA Helena-area members hunt this area

FWP Response: Under FWP ownership, minimal development of public facilities such as a parking area is planned in order to maintain the undeveloped, primitive nature of the area. The overall objectives for this project include maintaining or improving the wildlife and fisheries values of the property as well as providing recreational opportunity on the property.

2. Comments related to weeds on the property
 - a. Weed problem is a big concern; FWP did take care of weeds on Tar Head Creek Unit at time of purchase but FWP said there were not enough funds to continue with weed management on existing WMA

FWP Response: FWP would document compliance with 7-22-2154, MCA, on weed inspections for land acquisitions. FWP would implement noxious weed management with guidance from the FWP Statewide Integrated Noxious Weed Management Plan (June 2008) and would utilize properly prescribed chemicals on a prioritized basis. Biological agents, mowing, pulling, and/or other methods would be researched and utilized where chemical control is inappropriate. Limitations on motorized use of the property would be implemented to minimize the introduction and spread of noxious weeds. Weed-seed free feeds for pack animals would be required.

Management of the existing WMA is outside the scope of this project; however, FWP has funds to continue weed management, has continued to treat weeds across all units of the WMA, and has documented such work. Weed management is a priority on this WMA.

3. Comments related to fencing, signing, and human trespass on neighboring property
 - a. Lack of boundary fence on the north side between 178-acre Cartan parcel and Leite property; no boundary for hunters; install a fence on this boundary
 - b. FWP said there were not enough funds to continue maintaining fence on existing WMA
 - c. Hunters have entered Leite's property and caused many problems; torn down gates, driven on property, cut fence, twisted wires open; two lost hunters came through Leite's fence and down onto Leite's property at the back of the house
 - d. FWP put up signs but not along the full length of the property line between Leite's and the southern boundary of Tar Head Creek unit

FWP Response: FWP expects that hunters utilizing the WMA will do some "self-policing," based on reports made by hunters to the FWP area wardens and wildlife biologist in the past. If FWP acquires the property, to minimize the possibility of trespass to neighboring private property we 1) plan to sign the boundary between the WMA addition and private property, following FWP boundary signing standards and 2) plan to install a sign at the parking area depicting the WMA boundary and surrounding private property and public property.

Landowner permission is required for all hunting on private property in Montana (87-3-304MCA). Therefore, anyone hunting on property without permission can be cited for that violation, if the landowner chooses to pursue such. Posting of property is NOT required regarding Hunting Without Landowner Permission during established hunting seasons in order to pursue violations. Persons trespassing on private property outside of the hunting season can be charged with Criminal Trespass (45-6-203MCA). In order to prosecute for Criminal Trespass, the property is required to be posted.

Management of the existing WMA is outside the scope of this project; however:

- *FWP has continued to maintain fence and to remove downed trees on shared boundaries with both public and private land. FWP has also installed or replaced fencing across the WMA, where determined to be necessary for resource protection and cost effective.*

- *The boundary of the Tar Head Creek unit was signed along both public and private land boundaries after it was acquired, and additional signs were added in subsequent years, including in 2017 during fencing repair and replacement. Signing follows FWP's boundary signing standards, which does not include "No Trespassing" signs.*

4. If FWP does not want livestock grazing on the proposed acreage, the property boundaries must be addressed

FWP Response: FWP does not intend to allow livestock grazing on the property and would prefer to fence cattle out, and therefore the feasibility of drift fencing (partial fencing to control livestock) may be explored. Fencing along other sections of the perimeter of the property will be maintained or installed when determined to be both necessary for resource protection and cost effective.

5.
 - a. Target shooting on WMA for the past two years; one time with a semi-automatic rifle
 - b. Fear that visitors to Leite property could be shot by overly zealous hunter or stray bullet

FWP Response: Weapons discharge would only be allowed for lawful hunting purposes. Target practice and clay bird shooting would be prohibited at this WMA. Additional laws would apply and may be found on FWP's website, www.fwp.mt.gov (by authority of MCA codes: 87-1-303, 87-6-201, and 87-5-402). FWP encourages lawful and ethical hunting practices. FWP would recommend that unlawful activity be reported to 1-800-TIP-MONT.

6. Note that Stemple Pass Rd is a county road in the draft EA and that FWP will need to work with the Lewis and Clark County Commissioners and Public Works Department regarding any future access permitting requirements, public signage, etc. when constructing a day-use parking area

FWP Response: FWP's Design and Construction staff would visit the property to assess placement of a suitable public approach and parking area. Depending on where the safest approach for public use of the project property would likely be, FWP Design and Construction staff would be in communication with Montana Department of Transportation (Hwy 279) or Lewis and Clark County (Stemple Pass Rd) about the approach to the property as well as establishing a parking area. Wherever the parking area is located, parking area fencing and barrier erection would be anticipated after acquisition to provide resource protection and for public safety.

7. Comment related to existing infrastructure
 - a. Work with the Cartan family to consider removing the old, decayed buildings, corrals, and other worn out structures on the 178-acre parcel
 - b. Identify the existing septic drain field and electric power meter and box in the draft EA and explain how they will be managed in the future

FWP Response: The structures would be left "as is," and FWP would not plan to maintain the existing structures on the parcel. The drain field area would be surveyed out of the property being acquired, along with the house on the corner south of Stemple Pass Rd, and

FWP would not acquire either the drain field or the house. FWP would plan to have the electric meter and box disconnected.

8. Not notified about this project until postcard dated August 29, 2018 received

FWP Response: In compliance with MEPA, a draft Environmental Assessment (EA) was completed on the proposed action by FWP and released for public comment in August 2018. The public comment period was for 30 days from the date the EA was posted on the FWP website, with a deadline of 5:00 pm September 25, 2018.

9. Given recent and future discussions and legal opinions about approval of land acquisitions and easements, this project should be supported and approved by the Fish and Wildlife Commission and the Land Board

FWP Response: The project will be reviewed by the Fish and Wildlife Commission and, if endorsed, would subsequently be reviewed by the Board of Land Commissioners.

10. Preserve history of the Cartan Property

FWP Response: When the revision of the Canyon Creek WMA Management Plan is completed, the history presented in the One-Room Schoolhouse story would be summarized in the History section of that document, along with other historical information learned during development of this project.

11. Comment related to management plans

- a. Short and long-term management of the project properties and existing WMA needs to follow the statement in the draft EA: “Per state law, 87-1-201(9) MCA, FWP is required to implement programs that address fire mitigation, pine beetle infestation, and wildlife habitat enhancement...”; short and long-term management plans for the entire WMA should address fire mitigation, noxious weed concerns, hunter education regarding no target shooting, trespass, law enforcement issues (drug activity, etc), long term effects of mountain pine beetle and spruce bud worm infestations, drought, insects, and disease
- b. FWP staff should have a clear understanding of existing dead to live forested timber stands within the proposed acreage and long-term fire mitigation of managing and identifying the existing trails and road systems that can be maintained for emergency response vehicles for wild land fire prevention, mitigation, and fire suppression

FWP Response: The overall objectives for this project include maintaining or improving the wildlife and fisheries values of the property. Current and future revisions of the Canyon Creek WMA Management Plan would address some of these issues: wildfire control, noxious weed management, public unfamiliarity with regulations, and boundaries. Laws and other FWP management plans would also apply to management of this property.

FWP would develop and implement forest management plans for this property to comply with this statute, 87-1-201(9) MCA, and FWP would implement noxious weed management

with guidance from the FWP Statewide Integrated Noxious Weed Management Plan (June 2008).

Weapons discharge would only be allowed for lawful hunting purposes. Target practice and clay bird shooting would be prohibited. Additional laws would apply and may be found on FWP's website, www.fwp.mt.gov (by authority of MCA codes: 87-1-303, 87-6-201, and 87-5-402).

If FWP acquires the property, to minimize the possibility of trespass to neighboring private property we 1) plan to sign the boundary between the WMA addition and private property, following FWP boundary signing standards and 2) plan to install a sign at the parking area depicting the WMA boundary and surrounding private property and public property.

FWP area game wardens would plan to respond to unlawful activities and would plan to patrol this area, as allowable with other regional responsibilities. They would also work with other law enforcement agencies as necessary.

Public motorized access would be limited to the parking area and entrance to the parking area. There would be minimal administrative motorized access, to treat weeds for example. FWP does not plan to maintain any routes on these parcels, and to date has only located one route, a short two-track on the lower portion of the 178-acre parcel.

Management of the existing WMA is beyond the scope of this project; however, the existing road prism on Specimen Creek, Tar Head Creek, and the Mill Creek unit would provide a ready means for emergency access should the need arise to respond to fire. After completion of the acquisition, FWP intends to review the property with the Department's forester and develop a forest plan, which would include further description of roads, forest habitat objectives, and fire concerns.

Final Environmental Assessment for the Canyon Creek Wildlife Management Area Addition

FWP concludes that the impacts associated with the proposed alternatives would not have a significant impact on the physical environment or human population in the area. In determining the significance of each impact, the criteria defined in the State of Montana's Administrative Rule 21.2.431 was used.

This environmental assessment is therefore the appropriate level of analysis for the proposed action and an environmental impact statement is not required.

Based on the comments received and consideration of their value to improve and clarify the assessment for this project, FWP has made some modifications to the Draft Environmental Assessment narrative as presented in this Decision Notice. This Decision Notice and attached draft Canyon Creek Wildlife Management Area Addition Environmental Assessment will be considered the Final EA. Both will be posted on FWP's website.

Decision

Based upon the Environmental Assessment and public comment, it is my decision to approve the acquisition of the Canyon Creek Wildlife Management Area Addition pending review by the Fish and Wildlife Commission and the Board of State Land Commissioners.

A handwritten signature in black ink, appearing to read 'Mark Deleray', with a long horizontal flourish extending to the right.

Mark Deleray, Region 3 Supervisor
Montana Fish, Wildlife & Parks

September 28, 2018